

6 FAH-2 H-500 POST-AWARD CONTRACT ADMINISTRATION

6 FAH-2 H-510 GENERAL

(TL:CORH-1; 08-21-1997)

6 FAH-2 H-511 ADMINISTRATION

*(TL:CORH-1; 08-21-1997)
(State Only)*

a. To assure performance of a contract in the manner most beneficial to the U.S. Government, the U.S. Government has the responsibility to actively watch and follow the contractor's performance and take prompt, affirmative action to correct problems. This is one of the most vital elements of what is called "contract administration," i.e., making sure that the terms and conditions agreed upon when the contract was awarded are actually carried out.

b. The goal of contract administration is to ensure that the contract is performed, as written, by both the contractor and the U.S. Government. Here the emphasis is on "as written." U.S. Government personnel dealing with a contractor **must** understand that when the U.S. Government acts as a party to a contract, its authority to direct the actions of a contractor rest solely in the written words of the contract.

c. Contract administration begins when the contract has been signed and ends with the administrative actions taken at contract closeout, after performance has been completed and the contractor has received final payment. Contract administration includes monitoring the contractor's technical progress; approving invoices for payment in accordance with contractual terms; reviewing and consenting to subcontracts; monitoring subcontractor performance; controlling U.S. Government property; and overseeing contract modifications and terminations.

d. Ultimately, the administration of a contract is the responsibility of the Contracting Officer, who is the only person who may modify the contract, or take action to enter into or change a contractual commitment on behalf of the U.S. Government. However, the COR plays an important role in contract administration as described below.

6 FAH-2 H-511.1 Contract Interpretation

(TL:CORH-1; 08-21-1997)

(State Only)

a. The prime reference for matters concerning performance is the plain language of the contract document. U.S. Government regulations and procedures provide direction and guidance, but they do not alter the written contract terms.

b. Contracts shall list the contract clauses applicable to the acquisition. The COR should have a general knowledge of the requirements of these clauses. Questions regarding contract language should be referred to the Contracting Officer.

c. Once the contract has been awarded, the COR's first responsibility is to read and understand the contract, keeping in mind the rules of contract interpretation. U.S. Government contracts are subject to essentially the same common law rules of interpretation applied to other contracts. Some of these rules affecting contract administration are:

- (1) The intent of the parties must be gathered from the whole contract.
- (2) The standard for the interpretation of the written contract is the meaning that would be attached to the writing by a knowledgeable, objective third party.
- (3) Specific provisions prevail over general provisions when in conflict.
- (4) A standard clause entitled "Order of Precedence" resolves inconsistencies within the contract provisions by assigning precedence in a specified order within the contract parts.
- (5) An ambiguous provision subject to more than one interpretation will be interpreted against the party responsible for creating it—in U.S. Government contracts this is almost always the U.S. Government, as the contract provisions are normally prepared by the U.S. Government.

6 FAH-2 H-511.2 The Controlling Technical Document

(TL:CORH-1; 08-21-1997)

(State Only)

a. Many contract administration problems result from the failure of the controlling technical document (Statement of Work, specification, or purchase description) to precisely set forth what is required. Where specifications are shown to be defective or make performance impossible, the contractor may be excused for lack of performance or may be entitled to additional compensation if the cost of performance is increased.

b. Perhaps one of the most important aspects of contract interpretation is the determination of the basic nature of the document. There are two principal types of controlling documents:

(1) The **performance document** which expresses its criteria in terms of functions to be performed, such as degrees of precision or capability levels which are imposed upon the end item (speed of a vehicle, maintenance standards, accuracy of measuring device, ability to withstand environmental conditions).

(2) The **design document** which describes what is to be prepared in terms of its physical characteristics (size, shape, delineation of component parts, wiring diagrams, materials to be used). A design is often specified by inclusion of drawings and parts lists or a sample item which serves as a standard of performance for the item to be delivered.

c. The obligations and responsibilities imposed upon the contractor differ depending upon whether the controlling document is of performance or design character.

d. When a design document is used, the contractor is obligated to produce an end item which is physically identical to the items described by the U.S. Government design document. Further, the U.S. Government design document will include a description of the quality features which are characteristic of the physical item which it wishes to obtain, and the contractor is responsible for achieving that level of quality in the production of the end item.

e. However, when a design document is used, the contractor is not normally held responsible for the design adequacy of the end item the U.S. Government has specified. The U.S. Government bears the risk of whether the design will fulfill the U.S. Government's requirement. For this reason, performance specifications are preferred for most applications.

g. When a performance document is used, the contractor is responsible for achieving the performance outcome which the U.S. Government has specified in its document. This responsibility is different from that if the controlling document were a design document. If the performance document was properly prepared and did, in fact, express the intended use and degree of performance desired by the U.S. Government, the contractor is responsible for the ability of the U.S. Government to achieve the performance objectives. In most cases, it is appropriate to transfer this risk to the contractor, since the contractor presumably possesses more expertise in the desired technology than does the U.S. Government.

6 FAH-2 H-512 THE COR'S ROLE IN CONTRACT ADMINISTRATION

(TL:CORH-1; 08-21-1997)

(State Only)

a. The legal responsibility for administration of the contract rests and remains with the Contracting Officer. The COR functions as the technical representative of the Contracting Officer and stays in close communication, relaying any information affecting contractual commitments and requirements.

b. Generally, the Contracting Officer authorizes the COR to independently perform the following functions:

(1) Correspond directly with the contractor. (Copies of all correspondence are sent to the Contracting Officer.)

(2) Conduct on-site visits.

(3) Hold conferences with the contractor.

(4) Approve all technical data submitted by the contractor.

(5) Provide direction to the contractor in technical matters such as:

(a) Within the scope of the contract as written, or

(b) Will not affect cost, period of performance, or

(c) Other terms and conditions of the contract.

(6) Approve invoices for payment.

c. In addition to exercising delegated authorities, the COR is expected to:

(1) Advise and assist the Contracting Officer in administering the business aspects of the contract—reviewing vouchers, invoices, reports, and deliverables.

(2) Maintain a file documenting significant actions and containing copies of trip reports, correspondence, and reports and deliverables received under the contract.

(3) Coordinate requirements office decisions relating to the contract.

(4) Prepare final summary statements for contract closeout.

d. The 6 FAH-2 H-512 Exhibit H-512 provides a chart showing COR versus Contracting Officer responsibilities in the contract administration phase.

6 FAH-2 H-513 LIMITATIONS ON COR AUTHORITY

(TL:CORH-1; 08-21-1997)
(State Only)

The COR **shall not** direct the contractor to undertake any activity which will change the:

Total price or estimated cost

Product deliverables

Statement of work

Delivery dates

Total period of performance

Administrative provisions of the contract.

6 FAH-2 H-514 SUPERVISOR'S PARTICIPATION IN CONTRACT ADMINISTRATION

(TL:CORH-1; 08-21-1997)
(State Only)

Being designated as a COR places unique demands on an individual and establishes a direct channel of communication between the Contracting Officer and the COR. The supervisor of an individual who has been appointed a COR has an inherent responsibility to provide guidance to that individual; however, such guidance should not conflict with the Contracting Officer's letter of designation to the COR. The supervisor should ensure that the COR has the personal support, resources, and time needed to perform his or her functions. The CO and the supervisor should also ensure the COR has had the appropriate training as described in 6 FAH-2 H-142 Exhibit H-142.1 .

6 FAH-2 H-515 POST-AWARD ORIENTATION AND CONFERENCES

(TL:CORH-1; 08-21-1997)
(State Only)

a. Post-award orientation is useful for ensuring that the contractor understands contract requirements and for delineating the roles of U.S. Government personnel and the procedures that will be followed in administering the contract. Orientation brings together key individuals (both U.S. Government and contractor) who participated in the pre-award phase with those responsible for the post-award administration of the contract. It also affords an opportunity for the orderly transition of contractual duties and obligations if different personnel are to assume post-award responsibility.

b. In relatively simple acquisitions, post-award orientation may be accomplished by a letter from the Contracting Officer which identifies the U.S. Government's contract administration officials and any special or unusual requirements.

c. The Contracting Officer may decide that a post-award conference is needed if there are indications that the contractor lacks a clear understanding of the contract requirements, or if the contract work is complex. If a conference is held, the Contracting Officer will chair the conference. The post-award conference should be preceded by a meeting of U.S. Government administrative personnel in order to formulate an agenda. Matters the agenda might include are:

(1) Clarification of the specifications or the contents of the Statement of Work and/or identification of ambiguous clauses.

(2) Clarification of special contract terms/clauses.

(3) Reporting requirements and procedures for monitoring and measuring progress.

(4) Billing, voucher approval, and payment procedures.

(5) Quality control and testing requirements.

(6) Discussion of lines of authority, i.e., COR responsibilities versus Contracting Officer responsibilities.

- (7) Furnishing and control of U.S. Government property, if applicable.
- (8) Anticipated problem areas.

6 FAH-2 H-516 STANDARD COR WORKING FILE

(TL:CORH-1; 08-21-1997)
(State Only)

a. The COR must set up and maintain a file for each contract under his or her administration. The file's purpose is twofold: to provide easy access to technical contract information and work progress; and, to ease the transition to a new COR, if one is appointed during the life of a contract. Each file must be clearly indexed and must contain copies of the following materials:

- (1) Complete Procurement Request Package;
- (2) Solicitation and any amendments to it;
- (3) Technical and cost proposals (with modifications) submitted by the winning contractor;
- (4) Copy of the contractor's approved workplan, if required;
- (5) Copy of the contract and all modifications to it;
- (6) Copies of all progress reports submitted by the contractor;
- (7) Copies of all correspondence and synopses of telephone calls to and from the contractor;
- (8) Interim and final technical reports or other products;
- (9) Documentation of acceptability/unacceptability of deliverables (see 6 FAH-2 H-516 Exhibit H-516 for a sample delivery log);
- (10) Documentation of on-site visit results;
- (11) Copies of any memoranda regarding periodic performance affecting payment;
- (12) Copies of all invoices/vouchers and a payment register indicating the balance of funds remaining;
- (13) COR's final assessment of contract performance; and
- (14) Any other pertinent materials or information.

b. The COR shall provide to the Contacting Officer copies of all material which he or she authors. The requirements office is responsible for developing a procedure for the retention or retirement of technical files and products, including the COR file.

6 FAH-2 H-517 THROUGH H-519 UNASSIGNED

6 FAH-2 H-512 Exhibit H-512 RESPONSIBILITIES

(TL:CORH-1; 08-21-1997))

STAGE	COR RESPONSIBILITIES	CO RESPONSIBILITIES
<ul style="list-style-type: none"> Preparing or Contract Administration 	<ul style="list-style-type: none"> Read contract Set up COR file Assist CO in postaward orientation conference, if held 	<ul style="list-style-type: none"> Review contract Hold postaward orientation conference, if necessary
<ul style="list-style-type: none"> Administering the Contract 	<ul style="list-style-type: none"> Assure that contractor does the work called for Assure quality Assure timely performance Assure performance within budget (cost type contracts) Assure performance along most beneficial lines of effort Approve payment for satisfactory performance Document and keep CO apprised of unsatisfactory performance Act as liaison with contractor and CO 	<ul style="list-style-type: none"> Issue contract modifications Settle disputes, as necessary Terminate contract, if necessary Consent to placement of subcontracts Resolve issues of unsatisfactory performance
<ul style="list-style-type: none"> Closing Out the Contract 	<ul style="list-style-type: none"> Make final determination of technical acceptability Recommend disposition of Government-furnished property Recommend final settlement, if necessary 	<ul style="list-style-type: none"> Request final audit, if necessary Deobligate excess funds Dispose of Government-furnished property Negotiate final settlement (CR contracts) Approve final payment Retire file

6 FAH-2 H-516 Exhibit H-516
SAMPLE DELIVERY LOG

(TL:CORH-1; 08-21-1997)

Contract No.:_____

DELIVERABLE NO.	DATE DUE	DATE RECEIVED	ACCEPTABLE (Yes/No)	CONTRACTOR NOTIFIED	CO NOTIFIED

